

contractor by the department, it shall first pursue the administrative review process set forth in RCW 74.46.780.

(2) The administrative review and fair hearing process in RCW 74.46.780 need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, or contract provision. [1983 1st ex.s. c 67 § 39; 1980 c 177 § 77.]

See E2SHB 1908, Sec 115

74.46.780 Administrative review process. (1) Within twenty-eight days after a contractor is notified of an action or determination it wishes to challenge, the contractor shall request in writing that the secretary review such determination. The request shall be signed by the contractor or the licensed administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for its contention that the determination was erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request.

(2) After receiving a request meeting the above criteria, the secretary or his designee will contact the contractor to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than ninety days after a properly completed request is received unless both parties agree in writing to a specified later date.

(3) The contractor and appropriate representatives of the department shall attend the conference. In addition, representatives selected by the contractor may attend and participate. The contractor shall provide to the department in advance of the conference any documentation on which it intends to rely to support its contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than twenty-eight days after the initial session unless both parties agree in writing to a specific later date.

(4) A written decision by the secretary will be furnished to the contractor within sixty days after the conclusion of the conference.

(5) If the contractor desires review of an adverse decision of the secretary, it shall within twenty-eight days following receipt of such decision file a written application for an adjudicative proceeding. The proceeding is governed by chapter 34.05 RCW, the Administrative Procedure Act. [1989 c 175 § 159; 1983 1st ex.s. c 67 § 40; 1980 c 177 § 78.]

Effective date—1989 c 175: See note following RCW 34.05.010.

74.46.790 Denial, suspension, or revocation of license or provisional license—Penalties. The department is authorized to deny, suspend, or revoke a license or provisional license or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars per violation in any case in which it finds that the licensee, or any partner, officer, director, owner of one percent or more of the assets of the nursing home, or managing employee:

(1) Failed or refused to comply with the requirements of this chapter or the rules and regulations established hereunder; or

(2) Has knowingly or with reason to know made a false statement of a material fact in any record required by this chapter; or

(3) Refused to allow representatives or agents of the department to inspect all books, records, and files required by this chapter to be maintained or any portion of the premises of the nursing home; or

(4) Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter; or

(5) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or the rules and regulations promulgated hereunder. [1980 c 177 § 79.]

74.46.800 Rule-making authority—Review of standards. The department shall adopt, promulgate, amend, and rescind such administrative rules as are necessary to carry out the policies and purposes of this chapter. In addition, at least annually the department shall review changes to generally accepted accounting principles and generally accepted auditing standards as approved by the financial accounting standards board, and the American institute of certified public accountants, respectively. The department shall adopt by administrative rule those approved changes which it finds to be consistent with the policies and purposes of this chapter. [1980 c 177 § 80.]

74.46.820 Public disclosure. (1) Cost reports and their final audit reports shall be subject to public disclosure pursuant to the requirements of chapter 42.17 RCW. Notwithstanding any other provision of law, cost report schedules showing information on rental or lease of assets, the facility or corporate balance sheet, schedule of changes in financial position, statement of changes in equity-fund balances, notes to financial statements, and any accompanying schedules summarizing the adjustments to a contractor's financial records, reports on review of internal control and accounting procedures, and letters of comments or recommendations relating to suggested improvements in internal control or accounting procedures which are prepared pursuant to the requirements of this chapter shall be exempt from public disclosure.

This subsection does not prevent a contractor from having access to its own records or from authorizing an agent or designee to have access to the contractor's records.

(2) Regardless of whether any document or report submitted to the secretary pursuant to this chapter is subject to public disclosure, copies of such documents or reports shall be provided by the secretary, upon written request, to the legislature and to state agencies or state or local law enforcement officials who have an official interest in the contents thereof. [1985 c 361 § 14; 1983 1st ex.s. c 67 § 41; 1980 c 177 § 82.]

Savings—1985 c 361: See note following RCW 74.46.020.

74.46.840 Conflict with federal requirements. If any part of this chapter and RCW 18.51.145 and 74.09.120 is found by an agency of the federal government to be in conflict with federal requirements which are a prescribed

Nursing Home Auditin

condition to the receipts of federal funds to the state, the conflicting part of this chapter and RCW 18.51.145 and 74.09.120 is hereby declared inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter and RCW 18.51.145 and 74.09.120 in its application to the agencies concerned. In the event that any portion of this chapter and RCW 18.51.145 and 74.09.120 is found to be in conflict with federal requirements which are a prescribed condition to the receipt of federal funds, the secretary, to the extent that the secretary finds it to be consistent with the general policies and intent of chapters 18.51, 74.09, and 74.46 RCW, may adopt such rules as to resolve a specific conflict and which do meet minimum federal requirements. In addition, the secretary shall submit to the next regular session of the legislature a summary of the specific rule changes made and recommendations for statutory resolution of the conflict. [1983 1st ex.s. c 67 § 42; 1980 c 177 § 92.]

74.46.900 Severability—1980 c 177. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1980 c 177 § 93.]

74.46.901 Effective dates—1983 1st ex.s. c 67; 1980 c 177. (1) *Sections 2, 7, 83, 85, 86, and 91 of chapter 177, Laws of 1980 are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on April 4, 1980.

(2) **Section 27 of chapter 177, Laws of 1980 shall take effect on July 1, 1980.

(3) RCW 74.46.300, 74.46.360, 74.46.510, and 74.46.530 shall take effect on January 1, 1985.

(4) All other sections of chapter 74.46 RCW, except those which took effect before July 1, 1983, shall take effect on July 1, 1983, which shall be "the effective date of this act" where that term is used in ***chapter 177, Laws of 1980. [1983 1st ex.s. c 67 § 49; 1981 1st ex.s. c 2 § 10; 1980 c 177 § 94.]

Reviser's note: *(1) Sections 2, 7, and 83 are RCW 74.46.020, 74.46.070 and 74.46.830, respectively. Section 85 consists of amendments to RCW 74.42.610. Sections 86 and 91 are temporary, uncodified sections.

** (2) Section 27 is codified as RCW 74.46.270.

*** (3) For codification of chapter 177, Laws of 1980, see Codification Tables, Volume 0.

Effective dates—1983 1st ex.s. c 67: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1983, with the exception of section 28 of this act, which shall take effect on January 1, 1985." [1983 1st ex.s. c 67 § 51.] Section 28 consists of the 1983 amendment to RCW 74.46.530.

Severability—Effective dates—1981 1st ex.s. c 2: See notes following RCW 18.51.010.

74.46.902 Section captions—1980 c 177. Section captions as used in this act do not constitute any part of the law. [1980 c 177 § 89.]

74.46.905 Severability—1983 1st ex.s. c 67. If any provision of this act or its application to any person or

circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 67 § 43.]

Chapter 74.50

ALCOHOLISM AND DRUG ADDICTION
TREATMENT AND SUPPORT

Sections

- 74.50.010 Legislative findings.
- 74.50.011 Additional legislative findings.
- 74.50.035 Shelter services—Eligibility.
- 74.50.040 Client assessment, treatment, and support services.
- 74.50.050 Treatment services.
- 74.50.055 Treatment services—Eligibility.
- 74.50.060 Shelter assistance program.
- 74.50.070 County multipurpose diagnostic center or detention center.
- 74.50.080 Rules—Discontinuance of service.
- 74.50.900 Short title.

Alcoholism, intoxication, and drug addiction treatment: Chapters 70.96 and 70.96A RCW.

Applicability of chapter 74.08 RCW: RCW 74.08.900.

74.50.010 Legislative findings. The legislature finds:
(1) There is a need for reevaluation of state policies and programs regarding indigent alcoholics and drug addicts;

(2) The practice of providing a cash grant may be causing rapid caseload growth and attracting transients to the state;

(3) Many chronic public inebriates have been recycled through county detoxification centers repeatedly without apparent improvement;

(4) The assumption that all individuals will recover through treatment has not been substantiated;

(5) The state must modify its policies and programs for alcoholics and drug addicts and redirect its resources in the interests of these individuals, the community, and the taxpayers; and

(6) Treatment resources should be focused on persons willing to commit to rehabilitation; and

(7) It is the intent of the legislature that, to the extent possible, shelter services be developed under this chapter that do not result in the displacement of existing emergency shelter beds. To the extent that shelter operators do not object, it is the intent of the legislature that any vacant shelter beds contracted for under this chapter be made available to provide emergency temporary shelter to homeless individuals. [1988 c 163 § 1; 1987 c 406 § 2.]

74.50.011 Additional legislative findings. The legislature recognizes that alcoholism and drug addiction are treatable diseases and that most persons with this illness can recover. For this reason, this chapter provides a range of substance abuse treatment services. In addition, the legislature recognizes that when these diseases have progressed to the stage where a person's alcoholism or drug addiction has resulted in physiological or organic damage or cognitive impairment, shelter services may be appropriate. The legislature further recognizes that distinguishing alcoholics and drug addicts from persons incapacitated due to physical disability or mental illness is necessary in order to provide an incentive for alcoholics and drug addicts to seek appropri-



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (206) 753-6780

June 15, 1995

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 11, 42, and 73, Engrossed Second Substitute House Bill No. 1908 entitled:

"An Act Relating to long-term care;"

Engrossed Second Substitute House Bill No. 1908 is far-reaching legislation representing the efforts of many to reform Washington's Long Term Care service delivery system. The legislature's efforts to expand options for individuals who could be served in community settings, improve the quality of care for those being served in community programs, and revise the nursing facility payment system are to be applauded.

Section 11 directs the Legislative Budget Committee (LBC) to develop a working plan for long term care reform by December 12, 1995. The LBC is to design an integrated, single point of entry system for the delivery of services to all users of long term care. This plan is directed to implement many of the findings included in the report completed by the Long Term Care Commission in 1991. In the intervening years the legislature has not chosen to adopt the recommendations of the Long Term Care Commission regarding integration of services. One of the primary reasons this proposal was not adopted was that it would have significant cost. Because of the wide array of long-term care issues which were addressed in this legislation, this section did not receive full public scrutiny in the 1995 legislative session. I would like to see more debate on the topic before such a major undertaking goes forward.

Section 42 extends the requirements for the Department of Social and Health Services (DSHS) to inspect nursing homes from every 12 months to at least every 18 months. Additionally, DSHS is prevented from conducting nursing facility inspections for 12 months after a citation-free inspection. This prohibition violates federal requirements that the state inspect facilities any time there is reason to believe a facility may be providing substandard care. While I am vetoing this section, I am directing DSHS to use its resources efficiently and to not inspect citation-free

Engrossed Second Substitute House Bill No. 1908

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facilities more frequently than every 12 months unless it has cause to believe problems have developed in the interim.

Section 73 provides nursing homes an additional extension of up to 60 months to apply for a Certificate of Need if the facility is located in an economically distressed area. Because the Certificate of Need considers financial feasibility, an extension would not necessarily make financing easier to obtain in an economically distressed area. Additionally, facilities in operation could utilize the Certificate of Need to minimize competition.

For these reasons, I have vetoed sections 11, 42, and 73 of Engrossed Second Substitute House Bill No. 1908.

With the exception of sections 11, 42, and 73, Engrossed Second Substitute House Bill No. 1908 is approved.

Respectfully submitted,


MIKE LOWRY
Governor



CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1908

54th Legislature
1995 1st Special Session

Passed by the House May 18, 1995
Yeas 90 Nays 0

Speaker of the
House of Representatives

Passed by the Senate May 22, 1995
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1908 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1908

Passed Legislature - 1995 1st Special Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Dyer, Cooke, Ballasiotes, Stevens, Elliot, Talcott, Cairnes, Lambert, Pelesky, Hymes, Robertson, Mielke, Carrell, Backlund and L. Thomas)

Read first time 03/24/95.

AN ACT Relating to long-term care; amending RCW 74.39.005, 2 74.39.040, 74.39A.010, 70.128.007, 70.128.057, 70.128.070, 70.128.080, 3 70.128.090, 70.128.140, 70.128.150, 70.128.160, 70.128.175, 43.190.020, 4 43.190.060, 74.08.545, 74.09.520, 74.08.550, 74.08.570, 18.51.091, 5 18.51.140, 18.51.300, 18.79.040, 18.79.260, 18.88A.030, 11.40.010, 6 11.42.020, 11.62.010, 11.28.120, 18.39.250, 18.39.255, 74.42.450, 7 68.46.050, 70.129.040, 43.20B.080, 74.42.020, 74.46.450, 70.38.111, 8 70.38.115, 70.38.125, 48.85.010, 48.85.020, 48.85.030, 48.85.040, 9 48.85.050, 74.09.585, 74.34.010, 74.34.100, 74.34.020, 74.34.070, 10 74.34.030, 74.46.020, 74.46.105, 74.46.115, 74.46.160, 74.46.170, 11 74.46.180, 74.46.190, 74.46.410, 74.46.420, 74.46.430, 74.46.450, 12 74.46.460, 74.46.470, 74.46.481, 74.46.490, 74.46.500, 74.46.505, 13 74.46.510, 74.46.530, 74.46.560, 74.46.570, 74.46.640, 74.46.690, 14 74.46.770, 74.46.780, and 70.128.120; amending 1995 c 260 s 12 15 (uncodified); adding new sections to chapter 74.39A RCW; adding new 16 sections to chapter 70.41 RCW; adding new sections to chapter 74.42 17 RCW; adding a new section to chapter 18.20 RCW; adding new sections to 18 chapter 70.128 RCW; adding new sections to chapter 18.88A RCW; adding 19 new sections to chapter 74.46 RCW; adding new sections to chapter 74.34 20 RCW; creating new sections; recodifying RCW 74.08.530, 74.08.560, 21 74.08.570, 74.08.545, 74.08.550, and 74.34.100; repealing RCW

70.128.180, 74.08.541, 74.46.420, 74.46.430, 74.46.440, 74.46.450,
74.46.460, 74.46.465, 74.46.470, 74.46.481, 74.46.490, 74.46.500,
74.46.505, 74.46.510, 74.46.530, 74.46.540, 74.46.550, 74.46.560,
74.46.570, 74.46.580, and 74.46.590; prescribing penalties; providing
an effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. A new section is added to chapter 74.39A RCW
to read as follows:

Unless the context clearly requires otherwise, the definitions in
this section apply throughout this chapter.

(1) "Adult family home" means a facility licensed under chapter
70.128 RCW.

(2) "Adult residential care" means personal care services provided
by a boarding home that is licensed under chapter 18.20 RCW and that
has a contract with the department under section 15 of this act.

(3) "Aging and adult services administration" means the aging and
adult services administration of the department.

(4) "Assisted living services" means services provided by a
boarding home that has a contract with the department under RCW
74.39A.010 and the resident is housed in a private apartment-like unit.

(5) "Boarding home" means a facility licensed under chapter 18.20
RCW.

(6) "Cost-effective care" means care provided in a setting of an
individual's choice that is necessary to promote the most appropriate
level of physical, mental, and psychosocial well-being consistent with
client choice, in an environment that is appropriate to the care and
safety needs of the individual, and such care cannot be provided at a
lower cost in any other setting. But this in no way precludes an
individual from choosing a different residential setting to achieve his
or her desired quality of life.

(7) "Department" means the department of social and health
services.

(8) "Home and community services" means assisted living services,
enhanced adult residential care, adult residential care, adult family
homes, in-home services, and other services administered by the aging
and adult services administration of the department directly or through
contract with area agencies on aging.

1 abused elderly and vulnerable adults. The agreements shall cover such
2 subjects as the appropriate roles and responsibilities of the
3 department and community-based agencies in identifying and responding
4 to reports of (~~elderly~~) abuse, the provision of case-management
5 services, standardized data collection procedures, and related
6 coordination activities.

7 Sec. 88. RCW 74.34.030 and 1986 c 187 s 1 are each amended to read
8 as follows:

9 Any person, including but not limited to, financial institutions or
10 attorneys, having reasonable cause to believe that a vulnerable adult
11 has suffered abuse, exploitation, neglect, or abandonment, or is
12 otherwise in need of protective services may report such information to
13 the department. Any police officer, social worker, employee of the
14 department, a social service, welfare, mental health, or health agency,
15 including but not limited to home health, hospice, and home care
16 agencies licensed under chapter 70.127 RCW, congregate long-term care
17 facility, including but not limited to adult family homes licensed
18 under chapter 70.128 RCW, boarding homes licensed under chapter 18.20
19 RCW, and nursing homes licensed under chapter 18.51 RCW, or assisted
20 living services pursuant to RCW 74.39A.010, or health care provider
21 licensed under Title 18 RCW, including but not limited to doctors,
22 nurses, psychologists, and pharmacists, having reasonable cause to
23 believe that a vulnerable adult has suffered abuse, exploitation,
24 neglect, or abandonment, shall make an immediate oral report of such
25 information to the department and shall report such information in
26 writing to the department within ten calendar days of receiving the
27 information.

28 NEW SECTION. Sec. 89. RCW 74.34.100 is recodified as RCW
29 74.34.015.

30 Sec. 90. RCW 74.46.020 and 1993 sp.s. c 13 s 1 are each amended to
31 read as follows:

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

34 (1) "Accrual method of accounting" means a method of accounting in
35 which revenues are reported in the period when they are earned,

1 regardless of when they are collected, and expenses are reported in the
2 period in which they are incurred, regardless of when they are paid.

3 (2) "Ancillary care" means those services required by the
4 individual, comprehensive plan of care provided by qualified
5 therapists.

6 (3) "Appraisal" means the process of estimating the fair market
7 value or reconstructing the historical cost of an asset acquired in a
8 past period as performed by a professionally designated real estate
9 appraiser with no pecuniary interest in the property to be appraised.
10 It includes a systematic, analytic determination and the recording and
11 analyzing of property facts, rights, investments, and values based on
12 a personal inspection and inventory of the property.

13 (4) "Arm's-length transaction" means a transaction resulting from
14 good-faith bargaining between a buyer and seller who are not related
15 organizations and have adverse positions in the market place. Sales or
16 exchanges of nursing home facilities among two or more parties in which
17 all parties subsequently continue to own one or more of the facilities
18 involved in the transactions shall not be considered as arm's-length
19 transactions for purposes of this chapter. Sale of a nursing home
20 facility which is subsequently leased back to the seller within five
21 years of the date of sale shall not be considered as an arm's-length
22 transaction for purposes of this chapter.

23 (5) "Assets" means economic resources of the contractor, recognized
24 and measured in conformity with generally accepted accounting
25 principles.

26 (6) "Bad debts" means amounts considered to be uncollectable from
27 accounts and notes receivable.

28 (7) "Beds" means the number of set-up beds in the facility, not to
29 exceed the number of licensed beds.

30 (8) "Beneficial owner" means:

31 (a) Any person who, directly or indirectly, through any contract,
32 arrangement, understanding, relationship, or otherwise has or shares:

33 (i) Voting power which includes the power to vote, or to direct the
34 voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to
6 direct the disposition of such ownership interest;

37 (b) Any person who, directly or indirectly, creates or uses a
38 trust, proxy, power of attorney, pooling arrangement, or any other
39 contract, arrangement, or device with the purpose or effect of

1 divesting himself of beneficial ownership of an ownership interest or
2 preventing the vesting of such beneficial ownership as part of a plan
3 or scheme to evade the reporting requirements of this chapter;

4 (c) Any person who, subject to subparagraph (b) of this subsection,
5 has the right to acquire beneficial ownership of such ownership
6 interest within sixty days, including but not limited to any right to
7 acquire:

8 (i) Through the exercise of any option, warrant, or right;

9 (ii) Through the conversion of an ownership interest;

10 (iii) Pursuant to the power to revoke a trust, discretionary
11 account, or similar arrangement; or

12 (iv) Pursuant to the automatic termination of a trust,
13 discretionary account, or similar arrangement;

14 except that, any person who acquires an ownership interest or power
15 specified in subparagraphs (i), (ii), or (iii) of this subparagraph (c)
16 with the purpose or effect of changing or influencing the control of
17 the contractor, or in connection with or as a participant in any
18 transaction having such purpose or effect, immediately upon such
19 acquisition shall be deemed to be the beneficial owner of the ownership
20 interest which may be acquired through the exercise or conversion of
21 such ownership interest or power;

22 (d) Any person who in the ordinary course of business is a pledgee
23 of ownership interest under a written pledge agreement shall not be
24 deemed to be the beneficial owner of such pledged ownership interest
25 until the pledgee has taken all formal steps necessary which are
26 required to declare a default and determines that the power to vote or
27 to direct the vote or to dispose or to direct the disposition of such
28 pledged ownership interest will be exercised; except that:

29 (i) The pledgee agreement is bona fide and was not entered into
30 with the purpose nor with the effect of changing or influencing the
31 control of the contractor, nor in connection with any transaction
32 having such purpose or effect, including persons meeting the conditions
33 set forth in subparagraph (b) of this subsection; and

34 (ii) The pledgee agreement, prior to default, does not grant to the
35 pledgee:

36 (A) The power to vote or to direct the vote of the pledged
37 ownership interest; or

38 (B) The power to dispose or direct the disposition of the pledged
39 ownership interest, other than the grant of such power(s) pursuant to